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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20544

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 21554

In the Matter of

Federal-State Joint Board
on Universal Service

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CC Docket No. 96-45

REPLY COMMENTS OF MTA WIRELESS
IN RESPONSE TO
FURTHER NOTICE OF PROPOSED RULEMAKING

Matanuska-Kenai, Inc. d/b/a MTA Wireless ("MTA Wireless"), by its attorneys, hereby submits reply comments in response to the Further Notice of Proposed Rulemaking, FCC 98-278, released October 26, 1998 ("FNPRM"), in the above-captioned proceeding. MTA Wireless provides cellular service to Palmer, Alaska and surrounding rural areas of the Matanuska Valley northeast of Anchorage. These reply comments address the mechanisms discussed in the FNPRM for separating the interstate and intrastate revenues of CMRS providers for purposes of calculating contributions to the USF.

I. **The Record In This Proceeding Provides No Support For Adoption Of An Inflexible, Across-The-Board 15 Percent Allocator For CMRS Providers**

MTA Wireless urges the Commission not to establish a fixed 15 percent proxy for determining the interstate portion of CMRS provider revenues to be reported on the USF Worksheet as tentatively proposed in the FNPRM. Overwhelmingly, the comments filed in response to the FNPRM on this issue (i) reflect the reality that differences in wireless carriers' size, service areas and price structures, among other things, result in widely varying percentages of interstate traffic, and (ii) demonstrate that uneconomic market and competitive distortions will

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result unless individual CMRS providers retain the option of using their own data collection procedures to establish interstate revenues.

In reviewing some twenty-six sets of comments the Commission's records indicated were filed on January 11, 1999 in response to the FNPRM, MTA Wireless found *none* supporting a fixed percentage allocator without some sort of alternative or option for use of a carrier's own data collection procedures to establish a more accurate allocation. Further, many of the comments reflect a general consensus that the proposed 15 percent proxy -- based on the nationwide average percentage of interstate *wireline* traffic reported for the DEM weighting program -- well exceeds industry estimates of average *wireless* interstate usage in the 5 to 7 percent range, and thus is far too high a figure to be used even as a "safe harbor," and even if an alternative option for use of carrier-specific data is permitted. The comments reflect little or no disagreement on this issue across a broad range of interests, including both large and small CMRS providers, LECs, IXC's and various industry trade associations.

For example, CTIA's comments support adoption of a fixed percentage allocator only as an *option* wireless carriers may *elect* to use as an alternative to collecting their own data for calculating interstate revenues. CTIA points out that allowing carriers to rely on their own data will encourage carriers to derive accurate estimates of their interstate revenues, and minimize uneconomic impacts that USF contributions would otherwise have on the pricing and usage of competitive wireless services. CTIA further notes that the proposed 15 percent proxy substantially overstates the percentage of CMRS traffic appropriately assigned to the interstate jurisdiction, and that a fixed percentage option for cellular and PCS carriers would more appropriately be established between 5 and 6 percent. CTIA also asserts that carriers should be

allowed to subtract out non-telecom revenues (e.g., voice mail, call waiting, etc.) from telecom revenue before applying the appropriate percentage, even where such charges are bundled.

Although others suggest somewhat different solutions to the interstate allocation problem, all recognize that a one size fits all approach cannot work. Thus, noting the wide diversity among CMRS service areas in terms of size of market, urban or rural, multi or single state, etc., BellSouth states that the FCC should refrain from adopting a fixed proxy, either on a mandatory or optional basis. BellAtlantic suggests that the Commission might establish a standard factor in the 7 percent range that presumptively applies to all wireless providers, but should give carriers the option to use carrier-specific factors based on their own relative traffic volumes. United States Cellular Corporation urges the Commission to continue to allow wireless carriers to make individual determinations of their interstate revenues, noting that a 15 percent benchmark based on wireline usage is not only unsupported, but unfair to small and medium sized carriers. In a similar vein, the comments filed by AirTouch, USTA, US WEST, Sprint PCS, Nextel, PCIA, SBC, Omnipoint, NTCA, Ameritech and AT&T all support allowing individual carriers the option of establishing their own percentage of interstate usage even if the Commission establishes a proxy or safe harbor percentage, and several of these commenters agree that a 15 percent proxy grossly overstates CMRS interstate traffic.

II. Requiring All Cellular Carriers To Use A Fixed Percentage For Reporting Interstate Revenues Would Be Unreasonable, Will Increase Costs In Certain Service Areas, And May Raise Anticompetitive Concerns

MTA Wireless endorses and supports the comments filed in response to the FNPRM by MACtel. Like MACtel, MTA Wireless provides cellular service in Alaska. As MACtel points out, the geographic areas served by wireless carriers in Alaska are truly unique in terms not only of weather and terrain, but also in providing service to vast, sparsely populated expanses. MTA

Wireless further agrees with MACtel that Alaskan cellular carrier traffic patterns are unique given not only that Alaskan carriers' service areas are wholly intrastate, but that the next closest state is thousands of miles away, resulting in a percentage of interstate traffic that in all likelihood is lower than would be found in any other region of the country. Using the same fixed percentage interstate allocator for a small Alaskan wireless provider as is applied to large nationwide carriers serving such densely populated interstate areas as the northeastern United States will have a decidedly negative effect upon the competitive neutrality goals the Commission seeks to achieve, and will exert upward pressure on wireless rates in high cost areas such as Alaska, the very areas the universal service program is intended to assist. As already noted, the comments filed in response to the FNPRM overwhelmingly oppose relying exclusively upon a fixed 15 percent proxy to establish wireless interstate revenues without regard to geographic and market disparities encountered throughout the United States. Because these disparities reach extreme proportions in Alaska, it is apparent that, at a minimum, wireless carriers serving this unique environment warrant particular consideration.

MTA Wireless appreciates the Commission's concern that relying simply on wireless carriers' "good faith estimates" of interstate traffic could produce undesirable results, but the comments filed in response to the FNPRM demonstrate that inflexible application of a fixed percentage allocator (especially one as high as 15%) will be equally undesirable, producing decidedly inaccurate reporting of interstate revenues by many if not most CMRS providers. Consequently, if a fixed permanent percentage is to be adopted in lieu of the existing safe harbor, it is essential that wireless carriers be given the option of using their own data-collection procedures, which could be submitted for review at the request of the Commission, to derive their actual interstate revenues. MTA Wireless also agrees with MACtel and others that it would

impose an unwarranted burden, particularly upon the smaller wireless carriers most likely to need to rely upon their own data to establish interstate revenue levels, if the Commission were to require carriers to seek rule waivers before exercising this option.

Respectfully submitted,

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January 25, 1999

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CERTIFICATE OF SERVICE

I, Elizabeth A. Fertig, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 25th day of January, 1999, caused to be sent by first-class U.S. mail, postage-prepaid, a copy of the foregoing Reply Comments of MTA Wireless in Response to Further Notice of Proposed Rulemaking to the attached service list:



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